

The Legislative Primer Series for Front-End Justice:

Young Adults in the Justice System

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This report is part of a series that explores policies that impact the front end of the criminal justice system. Each brief looks at who is entering the "front door" of the criminal justice system and gives examples of legislation, national initiatives, best practices, promising programs, and key research on timely issues. The series provides legislatures with the tools they need to consider cost-effective policies that protect public safety.

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The Legislative Primer Series for Front-End Justice: Young Adults in the Justice System

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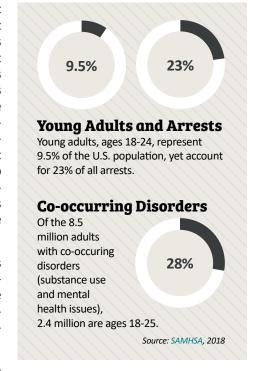
Young Adults

Criminal justice reforms have been sweeping the nation, from creating alternatives to arrest and implementing pretrial reforms to addressing wealth-based inequities in bail, court fines and supervision fees.

Overrepresented at every stage of the criminal justice system are young adults,¹ and even more so, young adults with behavioral health needs.

Young adults, ages 18-24, represent 9.5% of the U.S. population, yet account for 23% of all arrests.² Statistics show this age group also has some of the highest rates of behavioral health disorders. It is estimated that 1 in 7 young adults has a substance-use disorder, a rate more than double any other age group.³ Additionally, young adults have, for years, remained the age group with the highest rate of alcohol disorders.⁴ Research also shows that 75% of mental illnesses begin before age 24,⁵ and rates of serious mental illness among young adults have been on the rise since 2008.⁶

Moreover, statistics show young adults reoffend at a greater rate than the general population, and they are more than twice as likely as the general population to be the victim of a serious violent offense.



Young adults' overrepresentation in

the justice system has prompted stakeholders to reevaluate the efficacy of traditional criminal justice responses for this age group. Developing research is shedding light on the distinct developmental needs of young adults, as compared to their younger and older counterparts. Young adults are different from adolescents and older adults in their behavioral and cognitive development needs and in their responses to treatment and programming. In light of this, jurisdictions are exploring policies and strategies "outside the box" of traditional justice responses.

"...there really is no 'magic birthday' after which young people can be considered fully mature."

-V. Schiraldi, HuffPost, March 2017

Legislators play a critical role as leaders and supporters of such policy innovations. As community leaders, they can convene the necessary stakeholders to vet, advance and support new strategies to improve outcomes for justice-involved young adults. They can also enact the laws needed to change policies and appropriate funds to support programs.

This report will examine the distinct justice-involved population of young adults and its overrepresentation in, and cost to, the justice system. It will provide an overview of developing research on their unique developmental and behavioral health needs, and then discuss approaches jurisdictions are using to change how we think about young adults in the justice system. Finally, the report will identify key starting points to assist jurisdictions in identifying young adults' distinct needs in their communities.

What We Know

The age of legal majority in most states is 18. At 18 years of age, a person can vote, serve in the armed forces and buy lottery tickets. In many states, 18 also marks the point in time at which a person can go to adult jail or prison. While the legal cutoff between juveniles and adults is clearly demarcated in statute, the developmental distinctions are not as clear cut.

THE SCIENCE

Developmental psychologists emphasize that young adults are not adolescents, nor are they mature adults. 11 Research shows young adults have different developmental needs than their younger and older cohorts. 12

Young adults are different from youth. Young adults are generally:

- More cognitively developed.
- Better able to regulate self-control.
- Under less parental supervision.
- More likely to commit serious offenses.

Compared with older adults, a greater proportion of young adults are:

- Less able to moderate responses in emotionally charged situations.
- Less likely to consider future consequences in decision-making.
- More likely to experience behavioral health disorders.
- More amenable to positive interventions.

Additionally, research in neuroscience shows that the brain develops well into a person's 20s, and importantly, certain brain functions develop or mature later than others. ¹³ As adolescents transition to adulthood, their intellectual abilities mature prior to their executive and self-regulatory abilities. This developmental disconnect is sometimes referred to as the "maturity gap." ¹⁴ It means an 18- to 24-year-old may understand risks involved with certain behaviors yet lack the capacity to resist other pressures or control impulsive behavior. ¹⁵

For young adults, this disconnect is especially problematic given their increased susceptibility to peer pressure, tendency to engage in risk-taking and impulsive behavior, and higher rate of behavioral health disorders. ¹⁶ A young adult's inability to appropriately respond to a risky or harmful situation can increase the chance of involvement in criminal activities and the justice system.

THE LIFE PATH

Criminologists suggest that the vast majority of young adults can take a natural path to criminal desistance by "growing out of crime" and achieving self-sufficiency.¹⁷ In addition to continued brain maturation, social and familial milestones can help foster

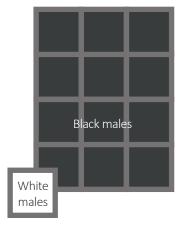
desistance from criminal behavior. Some of these "adult milestones" include gaining financial independence from parents, maintaining steady employment and developing stable routines. 18

Over time, though, the transition to adulthood has been occurring later in life. Changing societal norms in the United States have delayed many milestones that signal transition from childhood to adulthood, such as college, marriage, employment and parenthood. These delayed milestones also delay the natural tendencies to desist from crime.

For disadvantaged young adults, additional factors can disrupt and delay maturity to adulthood, as well as increase the likelihood of criminal justice involvement. Childhood trauma, parental incarceration, neighborhoods with concentrated poverty, gang involvement, and housing and food insecurities are

Racial disparities

Black males ages 18 to 24 are 12 times more likely to be imprisoned than white males of the same age.



just a few of these challenges.²⁰ Young adults are also more than twice as likely as the general population to be the victim of a serious violent offense. Research shows that prior victimization and trauma increases the likelihood of future offending.²¹

Racial disparities persist at a high rate for young adults as well. One study found that by age 23, almost half of black males had been arrested at least once, compared to 38% of white males.²² Black males ages 18 to 24 are 12 times more likely to be imprisoned than white males of the same age.²³ Rates of trauma and victimization are also higher for black Americans.²⁴

THE COST

Young adults' disproportionate representation in the justice system comes at a high cost to state and local governments, including costs incurred by law enforcement, jails, courts, corrections, prisons, and social and treatment services.

A high price is paid by the young adult as well, and by extension, his or her family. At the front end of the justice system, justice involvement can have an immediate impact—such as bail expenses and fines and fees. Research shows that just a few days in jail can upend people's lives by costing them a job or housing or by disrupting education, health care or treatment.²⁵

Since most justice-involved young adults will return to the community, ²⁶ back-end costs also must be considered. Future consequences for the individual are wide-ranging—including accumulated legal financial obligations, diminished earnings potential, and a criminal record that can negatively affect their ability to get a job, housing or a degree.²⁷

The Role for State Legislatures and Justice-System Stakeholders

LOOKING TO THE RESEARCH

State and local policymakers and stakeholders are looking to the research to address the challenges facing young adults. To make criminal justice policy responses effective for this age group, researchers stress the use of developmentally appropriate and trauma-informed responses,²⁸ while recognizing the transition from adolescent to young adult represents a period of increasing severity and lethality of offenses.²⁹ More than a quarter of all violent offenses are committed by 18- to 24-year-olds.³⁰

Since young adults are still maturing developmentally and socially, interventions at this stage can positively impact their lives and trajectory.³¹ For instance, research suggests that young adults respond better to rehabilitative interventions than older adults.³² And since most crimes are committed before a person turns 25,³³ most young adults will not continue on a criminal path.

While positive interventions can have a profound effect on young adults, it's important to note that during this developmental period, negative experiences carry an impact too.³⁴ For example, establishing strict conditions of supervision can set up young adults for failure, and exposure to harmful environments,³⁵ like jails and prisons, can increase the likelihood of engaging in criminal behavior and exacerbate behavioral health issues.

LABORATORIES FOR INNOVATION

State and local governments are laboratories for innovations. As more strategies are tested and data is collected, more insight is gained about effective interventions for this age group. Below are examples of innovative justice system responses within the adult criminal justice system that focus on the distinct traits of young adult offenders. (Examples identified in this brief will not cover responses in the juvenile justice system, such as raising the age of juvenile jurisdiction. For examples of options of juvenile justice responses, see Emerging Adult Justice Project, Columbia Justice Lab.)

INNOVATIVE JUSTICE SYSTEM RESPONSES

I. Pre-Arrest Diversion

Pre-arrest diversion has become an important component of front-end justice reform.³⁶ Jurisdictions use pre-arrest diversion to route defendants with behavioral health issues away from the justice system, and instead, connect them with community-based behavioral health treatment or recovery support services. Pre-arrest diversion is particularly important for young adults, as they have

Co-Responder Model

In Tucson, Ariz., specially trained police officers are paired with mental health clinicians to proactively defuse crisis situations and connect individuals to resources.

Source: Tucson Police Mental Health Support Team, 2019

some of the highest rates of behavioral health issues.

Pre-arrest diversion programs can assist young adults by connecting them to behavioral health services, peer and mentoring organizations, coordinated programs for prevention and intervention services, and organizations to assist in obtaining housing or employment. Pre-arrest diversion relies on cooperation between law enforcement officers, service providers and other community stakeholders.³⁷ Legislators are in a unique position to fund cross-systems coordination.

States have acted to support training law enforcement personnel to recognize individuals with behavioral health issues, and in some instances, provide the framework for non-traditional law enforcement response procedures. Over half the states have laws requiring officers be trained to respond to situations involving people with mental health, substance use or other behavioral health disorders.³⁸ Additionally, at least 12 states have enacted legislation creating requirements, guidelines, or both for establishing crisis intervention teams.³⁹ Crisis intervention training can be particularly helpful when law enforcement responds to a young adult in crisis whose heightened emotional and behavioral responses can be interpreted as threatening.⁴⁰

Behavioral Health and Increased Technology

Using data from the National Survey on Drug Use and Health, researchers identified trends suggesting that recent cultural changes (from 2011 on) in technology and social media have profoundly affected the mental health of young adults. The analysis showed that increased rates of major depressive episodes, serious psychological distress and suicidality among 18- to 25-year-olds (of the iGen generation) corresponded with the general population's increased use of smartphones and digital media—a trend that shows no signs of slowing down.

Source: American Psychological Association, 2019

Redirecting people to treatment, rather than jail, also reduces costs to the system and focuses serious, resource-intensive punishments on the persons who pose the greatest public safety risk. It can cost two to three times as much to house a person with a mental illness in jail than to use community-based treatment.⁴¹

II. Pretrial Diversion Programs and Young Adult Courts

Pretrial diversion programs occur after arrest and continue through the initial court appearance. Such programs are prominent around the country—many taking the form of specialized court programs. Some common examples are veterans' courts, drug courts and mental health courts.

Typically, a person accepted into a pretrial diversion program must complete a program agreed to by the prosecutor, the court, or both. If the individual completes the program successfully, the prosecutor typically dismisses the charges and no conviction results.⁴²

Pretrial diversion programs or specialized courts are often products of local and state partnerships that include law enforcement, prosecutors, public defenders, probation officers, behavioral health providers and judges. States can support these initiatives through appropriations, grant funding or statutory guidance.

The Choice is Yours Diversion Program

The Choice is Yours (TCY) is a felony pretrial diversion program for young adults who are first-time controlled substance offenders. The program is supported at both the local and state levels through dedicated appropriations.

TCY costs \$5,200 a year per client, whereas incarceration costs \$40,000 annually.

TCY: \$5,200/year

Incarceration: \$40,000/year

Source: Jewish Council for Public Affairs, "In Your Backyard," 2017

A key feature of specialized courts is tailoring services and responses to an individual's needs. Given the distinct needs of this age group, specialized young adult courts have become a popular intervention nationwide.⁴³

Young adults often face chronic homelessness and unemployment, and lack the basic academic, life and work skills needed to be successful in adulthood. Unlike older adults, young adults have not typically held a steady job, paid rent and bills, parented or supported a family. They are also highly susceptible to peer pressure and often lack strong, positive role models. Young adults have high rates of victimization and behavioral health disorders and can benefit from trauma-informed responses and incentives to participate in programming. 44 Young adults are also prone to make mistakes and often need multiple opportunities to succeed. 45

The San Francisco Young Adult Court has addressed these issues by developing a program—unique to this age group—that is developmentally and trauma-informed. Each participant is assigned to a clinician who collaborates with the entire Young Adult Court team to "engage, motivate, and support the participant to stabilize his/her transformation into adulthood."

Spotlight

King County, Wash. Drug Court—Young Adult Track

In King County, the drug court team that runs the young adult track recognizes that 18- to 25-year-olds make mistakes—repeatedly. The program summary states that: "Emphasis is on accurately identifying needs, developing and continually revising a plan of action." In this diversion program, the participant sets his or her own long- and short-term goals. The track to completion has four phases and progression through phases depends on achievement of goals. Importantly, noncompliance or a violation does not take away an achievement. Responses to noncompliance may be therapeutic intervention (such as increased treatment or essay writing) or primarily punitive (such as jail time). To be promoted from one phase to the next, participants must present their achievements and portfolio to the court.

Source: King County, 2014

Pennington County, S.D.—Distinct Cultural Needs

The Young Adult Diversion Outreach program in Pennington County serves young adults living in tribal communities. Using grant funds from the John D. and Catherine T. MacArthur Foundation's Safety and Justice Challenge, an attorney liaison and coordinator have initiated intensive outreach efforts to tribal communities. These include weekly visits to reservations to meet with youth, tribal community leaders, service providers and citizens. The outreach program created tribal community partnerships to allow for individually tailored and culturally relevant programming.

Source: Pennington County, 2018

In Illinois, the 2017 General Assembly authorized a First Time Weapon Offender Program that offers 18- to 20-year-olds who have committed non-violent offenses a chance to avoid a conviction. The pilot program "recognizes some persons, particularly young adults in areas of high crime or poverty, may have experienced trauma that contributes to poor decision-making skills..."

III. Court, Sentencing and Corrections

In some cases, a young adult may not be successful in diversion or diversion may not be appropriate. For young adults who go deeper into the justice system, traditional supervision options may impede their social and emotional development. For those with mental health disorders, detention increases their risk for self-harm, suicide, violence and victimization.⁴⁸

Recognizing this, several states have statutorily created court proceedings and sentencing and correction options specifically for young adults. They are designed to minimize negative effects but still hold the offender accountable. ⁴⁹ Some common components include confidential hearings, sentencing alternatives, coordination between youth and adult correctional services and programs, and availability of expungement or sealing of records.

In Massachusetts, the legislature created a probation program to "exclusively supervise young adults... so that these individuals may benefit from age appropriate guidance, targeted interventions and a greater degree of individual attention." Massachusetts' probation officers working with young adults must receive specialized training on:

- Supervising and counseling young adults.
- Psycho-social and behavioral development of young adults.
- Cultural competency.
- Rehabilitation of young adults.
- Educational programs.
- Relevant community-based services and programs.⁵¹

Another area of state involvement involves dedicated correctional options. Some states—including Colorado, Florida, South Carolina and Virginia—require certain youthful offenders to serve their sentences in facilities designed and programmed for young adults that are separate from facilities for older adults.

Florida's Legislative Intent: Improving Outcomes

"The purpose of this chapter is to improve the chances of correction and successful return to the community of youthful offenders sentenced to imprisonment by providing them with enhanced vocational, educational, counseling, or public service opportunities and by preventing their association with older and more experienced criminals during the terms of their confinement."

Source: Fla. Stat. ch. 958, 2018

IV. Reentry Barriers

Most young adults who enter the justice system will return to the community,⁵² but at a significant disadvantage. The transition from adolescence to adulthood is described by researchers as a "critical development period." According to Dr. Laurence Steinberg, it represents a stage of personal development in:

"mastery and competence, interpersonal relationships and social functioning, and self-definition and self-governance." 53

Incarceration disrupts this critical development stage and exposes young adults to a negative environment. In addition, young adults return to the community often without finishing their education and lacking basic vocational and life skills, stable housing and supportive peer networks.

CRIMINAL RECORDS

Criminal records can negatively affect a person's ability to get a job, housing or a degree. One study showed that incarceration can diminish a person' earnings up to 52%.⁵⁴ States have worked to reduce these barriers by expanding expungement eligibility and simplifying the process, reducing barriers to occupational licenses, prohibiting criminal record checks at the time of employment or housing appli-

Expungement

Research from the University of Michigan Law School found that expungement is associated with a "sharp upturn" in an individual's wage and employment trajectories.

> Source: Prescott & Starr, University of Michigan Law & Economics, 2019

cations, and educating employers and landlords.

At least seven states have enacted expungement provisions that apply to offenses committed by young adults.⁵⁵ In Vermont, the legislature recently made expungement mandatory for criminal history records of "qualifying crimes" committed by 18- to 21-year-olds.⁵⁶ Wisconsin law allows the court to order *at the time of sentencing* the young adult's record expunged upon successful completion of the sentence.⁵⁷

COORDINATION OF SERVICE SYSTEMS

State policies and funding have also promoted coordination of service systems important to reentry, such as education, health care, housing support and behavioral health care. In Oklahoma, the Department of Corrections and the Department of Mental Health and Substance Abuse Services implemented a reentry program that transitions inmates with serious mental illness to community-based mental health and substance-use services. Reentry intensive care coordination teams also provide support in the community related to housing, medical care and vocational opportunities.⁵⁸

Tools for Legislators

The body of research on the unique developmental needs of young adults continues to grow and shed new insights. Legislators and system partners can use this research to advance informed policy and budget decisions specific to the needs of their communities.

Jurisdictions may identify their unique needs by gathering data, identifying gaps in resources and services, educating stakeholders, forming collaborations, and examining laws and policies.

DATA COLLECTION AND SHARING

Data collection is an important step to identify needs and gaps in the current system. There is limited criminal justice data reported on this age group, and limited data sharing between system partners.

To fill this gap, state and local policymakers have supported increasingly robust collection of data on arrests, diversion to treatment,⁵⁹ charging, pretrial detention, sentencing, community supervision and recidivism. In addition, legislators have supported policies to assist in data sharing across the various systems—such as criminal justice, health care and social services.

Florida Data Collection

In 2018, Florida enacted a statewide criminal justice reporting requirement mandating local and state criminal justice agencies report specific data, including information for each defendant on date of birth, age, race or ethnicity, and gender. Information will be collected from charging to release. The bill also directed the development of written agreements among local, state and federal agencies to facilitate data sharing.

Source: Fla. S.B. 1392, 2018

LEGISLATIVE STUDIES AND TASK FORCES

States have begun to study their young adult population. In Massachusetts, the legislature created a task force to examine individuals ages 18 to 24 in the court and correctional systems. ⁶⁰ The task force is charged with recommending age-appropriate programming for young adults in correctional facilities, such as youth development and mentoring programs, mental health access, anger management, educational opportunities, and employment and vocational training. As another example, in 2019, the Washington Legislature appropriated funds to design and administer a statewide young adult behavioral health survey. ⁶¹

SUPPORT EVIDENCE-BASED MODELS

States have also supported use of evidence-based intervention models. In Illinois, the General Assembly created an Advisory Council on Early Identification and Treatment of

Mental Health Conditions in 2017. As part of its charge, the council must review and identify evidence-based best practice models and promising practices to screen and identify behavioral health conditions in young adults.⁶²

Examples of Evidence-based Models

Housing First and Multisystemic Therapy (MST) are both evidence-based models that show promising adaptations for young adults.

- The Housing First model addresses homelessness by providing housing assistance
 without any preconditions, such as sobriety—the premise being that housing
 stability is a basic necessity that must be met before other needs can be addressed.
 Young adults may benefit from this approach as it provides the stability and
 wraparound services, such as behavioral health treatment, that they need.
- MST is an intensive treatment that targets adolescent antisocial behavior and
 preservation of the family. An adaptation, called MST-EA (for emerging adults), is
 an intervention model focused on reducing recidivism in young adults with serious
 mental illnesses.

Sources: Children & Youth Services Review, 2019; National Institutes of Health, 2019

EXAMINE LAWS AND POLICIES

Finally, states have examined their laws and policies to identify what barriers or opportunities may exist that hinder or could bolster success for justice-involved young adults. The Sequential Intercept Modeltm is one framework communities have used to evaluate various systems and existing resources to organize targeted strategies that assist justice-involved individuals with behavioral health disorders.⁶³

Conclusion

State legislative action in this area is growing as states think "outside the box" to find developmentally appropriate responses to divert and rehabilitate young adults who find themselves in the justice system.

Armed with data and research, states have an opportunity to redirect the trajectory for justice-involved young adults, help them become productive members of the community, reduce unnecessary incarceration and disparities, and increase public safety.

NOTES

- Sometimes referred to as young adults, emerging adults or transition age youth, the exact age range of this cohort varies among types of research. For purposes of this brief, the term "young adult" will be used and generally refers to individuals ages 18 to 24.
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